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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/644,280

08/20/2003

Howard Sinkoff

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EXAMINER

MARSH, STEVEN M

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

09/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/644,280

Applicant(s)

SINKOFF, HOWARD

Examiner

Steven M. Marsh

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3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,7,9,12-18,24 and 28-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,7,9,12-18, 24, and 28-31 is/are allowed.
- 6) ☐ Claim(s) 32-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the fifth office action for U.S. Application 10/644,280 for Novel Cable Tray Assemblies filed by Howard Sinkoff on August 20, 2003. Claims 6, 7, 9, 12-18, 24, 28-43 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 32-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the preamble of claims 32, 34, and 41, Applicant claims *"a cable tray for use in a cable tray system in which at least two cable trays are connected together with at least one fastener"*. However, the claim also reads, *"the two parallel sections of the connector receiving member receiving at least a portion of a first fastener of the at least one fastener in the space therebetween"*. It appears that Applicant is attempting to claim the cable tray, but the limitation reads as if Applicant is claiming the entire cable tray system, including another cable tray and a fastener. For examination purposes, it is assumed that Applicant is claiming the cable tray as indicated in the preamble.

Claim Rejections - 35 USC § 102

Claims 32, 33, 36-39, 40, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Di Meo et al. Di Meo discloses a cable tray with a cable support assembly that has a weight-bearing base portion and a plurality of sidewalls (20). The sidewalls are connected to longitudinal edges of the base portion, extend in a common direction perpendicular to the base portion, and the base portion defines a plurality of open ends. There is a connector receiving member (29) connected to the base portion of the cable support assembly proximate a first open end of the cable support assembly. The connector-receiving member has two parallel sections (each side of 30) separated by a space (30, which has a J-shaped portion and can perform as a hook) and extending transversely across at least part of a width of the base portion. The two parallel sections of the connector-receiving member are arranged to at least receiving at least a portion of a first fastener in the space therebetween. There is a connector-receiving element of the same configuration as the connector-receiving member connected to the base portion of the cable support assembly proximate a second open end of the cable support assembly (29 on the opposite end of that shown in fig. 2 for connecting multiple trays). The connector-receiving element is positioned directly across from the connector-receiving member along a length of the base portion of the cable support assembly.

With respect to claim 40, Di Meo also discloses a connector-receiving member (23, 24, and 25) integrated into a sidewall of the cable support assembly proximate an open end of the cable support assembly. The member includes parallel sections

separated by a space and extending transversely across at least part of a width of the sidewall. The parallel sections are arranged to at least receive a portion of a fastener (28) in the space therebetween and there is an arched member interconnecting common ends of the two parallel sections. The connector-receiving element forms a looping element (27) that extends beyond the open end of the cable support assembly and the loop member and parallel section include respective electrically conductive portions (metal) that are arranged to engage the fastener.

Claim Rejections - 35 USC § 103

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Di Meo et al. in view of U.S. Patent 5,199,756 to Bartlett et al. Di Meo et al. does not disclose a connector-receiving member formed of wire. Bartlett et al. discloses a connector (20) and teaches that sheet metal and wire are functional equivalents as the material used for the connector. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized wire as the material for the connector taught by Di Meo, as taught by Bartlett et al., as a matter of engineering preference because they are functional equivalents.

Allowable Subject Matter

Claims 6, 7, 9, 12-18, 24, and 28-31 are allowed. Claims 34, 41, and 42 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112,

2nd paragraph, set forth in this Office action. The following is an examiner's statement of reasons for allowance: see previous action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed June 19, 2007 have been fully considered but they are not persuasive. Applicant argues that Di Meo does not show a cable tray having a connector receiving member connected to a base portion of the cable tray, wherein the connector receiving member includes two parallel sections separated by a space, and wherein the two parallel sections receive at least a portion of a fastener in the space therebetween. However, it does not appear that Applicant is positively reciting the fastener in the claim. If Applicant's intent is to indeed positively recite the fastener in the claim, the preamble should be amended to clarify that the cable tray system is being claimed or that the fastener is actually a part of the cable tray, rather than a cable tray system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is

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(571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

/Steve Marsh/

Steven M. Marsh

August 27, 2007